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Action by James H. Smith against Adam Wolsiefer. To review a judgment for defendant, plaintiff brings error. Affirmed.

C. R. Sands and Ordway Puller, both of Richmond, for plaintiff in error.

Lamb & Lamb, of Richmond, for defendant in error.

CULPEPER NAT. BANK, Inc. v. TIDEWATER IMPROVEMENT CO., Inc.

June 8, 1916.

[89 S. E. 118.]

1. Corporations (§ 508*)—Plea to Jurisdiction by Corporation—Made through Attorney.—A plea in abatement to the court's jurisdiction by a corporate defendant must be filed through its attorney, and not in the corporation's name.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 2001-2005; Dec. Dig. § 508.* 10 Va.-W. Va. Enc. Dig. 576.]

2. Banks and Banking (§ 118*)—Knowledge of Officer as Notice to Bank—Officer Interested Adversely.—Where a bank officer seeks to defraud both his bank and a third party, it is presumed he did not communicate his knowledge regarding the fraudulent transaction to the bank, and it is not chargeable with constructive notice thereof.

[Ed. Note.—For other cases, see Banks and Banking, Dec. Dig. § 118.* 3 Va.-W. Va. Enc. Dig. 568.]

3. Banks and Banking (§ 227 (3)*)—Discounts—Agreement to Apply Proceeds—Sufficiency of Evidence.—In an action by the maker of a note against a bank which discounted the note, crediting the proceeds to its codefendant, one Smith, who was then an officer of both parties, held the evidence does not sustain a verdict finding that the bank promised to deposit the proceeds to the maker's credit.

[Ed. Note.—For other cases, see Banks and Banking, Dec. Dig. § 227 (3).* 2 Va.-W. Va. Enc. Dig. 272.]

4. Limitation of Actions (§ 46 (6)*)—Accrual of Right of Action—Wrong Application of Proceeds of Discounted Note.—In an action against a bank for failing to place the proceeds of a discounted note to the maker's credit, the statute of limitations runs from the date banking transactions ceased between the parties, and plaintiff was furnished with a statement showing no funds to its credit.

[Ed. Note.—For other cases, see Limitation of Actions, Cent. Dig. § 245; Dec. Dig. § 46 (6).* 9 Va.-W. Va. Enc. Dig. 393.]

5. Limitation of Actions (§ 99 (1)*)—Computation of Period—Obstructing Prosecution of Suit.—Under Code 1904, § 2933, suspend-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

ing the running of the statute of limitations as to a party who obstructs the bringing of suit, during the period of such obstruction, held an instruction that the statute's running was suspended as to defendant bank during the period its codefendant obstructed the prosecution of suit was erroneous.

[Ed. Note.—For other cases, see Limitation of Actions, Cent. Dig. § 477; Dec. Dig. § 99 (1).* 9 Va.-W. Va. Enc. Dig. 419.]

6. Limitation of Actions (§ 99 (1*))—Computation of Period—Silence of Defendant.—Under Code 1904, § 2933, suspending the running of the statute of limitations as to a party who obstructs the bringing of suit, some fraudulent act participated in by the defendant bank, not its mere silence, was essential to such suspension.

[Ed. Note.—For other cases, see Limitation of Actions, Cent. Dig. § 477; Dec. Dig. § 99 (1).* 9 Va.-W. Va. Enc. Dig. 420.]

Error to Hustings Court of Richmond.

Action by the Tidewater Improvement Company, Incorporated, against the Culpeper National Bank, Incorporated, and another. Judgment for plaintiff, and defendant named brings error. Reversed and remanded.

Grimsley & Miller, of Culpeper, for plaintiff in error.

Daniel Grinnan, of Richmond, and *Jeffries & Jeffries*, of Norfolk, for defendant in error.

HIDEN v. MAHANES.

June 8, 1916.

[89 S. E. 121.]

1. Mortgages (§ 196*)—Special Provisions—Effect.—A deed of trust of land, duly recorded, containing a provision that mortgagor would not cut, sell, or remove certain timber on the land without the consent of the mortgagee in writing, and that, if permitted to cut the same, the money received would be applied on the secured notes, directly affected the title to the timber growing upon, and constituting a part of, the realty; and a purchaser of the timber was conclusively charged with notice of such provisions, and is liable for the amount not so applied.

[Ed. Note.—For other cases, see Mortgages, Cent. Dig. §§ 503-507; Dec. Dig. § 196.* 10 Va.-W. Va. Enc. Dig. 64.]

2. Mortgages (§ 217*)—Special Contract—Enforcement without Foreclosure.—In view of the special contract in the deed of trust, which it was competent for the mortgagee to make, the trustee could

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.